

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

CHARLES IZAC,

Petitioner,

v.

CIVIL ACTION NO. 5:13-cv-04223

JOEL ZEIGLER,

Respondent.

MEMORANDUM OPINION AND ORDER

The Court has reviewed the Petitioner's *Emergency Motion* (Document 1), filed on March 5, 2013, designated as an Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus by a Person in State or Federal Custody, and the *Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus by a Person in State or Federal Custody* (Document 7), filed on March 11, 2013, which are substantially similar. Petitioner requests an emergency furlough to visit his ailing mother. He asserts that his mother's death may be imminent and that the Bureau of Prisons has denied his request for a temporary release or furlough "based upon his conviction of being a felon in possession of a firearm."

By *Standing Order* (Document 3) entered on March 5, 2013, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On March 7, 2013, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 4). The Magistrate Judge found that the Bureau of Prisons has the exclusive authority, by statute, to determine whether a federal prisoner should be granted a furlough. (*Id.* at 3.) Finding that this Court lacked the authority to grant Petitioner's request, the Magistrate


Judge recommended that this Court deny Petitioner's Emergency Motion and remove this matter from the Court's docket.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by March 25, 2013. Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*.

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that Petitioner's *Emergency Motion* (Document 1) and the *Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus By a Person in State or Federal Custody* (Document 7) be **DENIED**. The Court further **ORDERS** that this matter be removed from the docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, to counsel of record, and to any unrepresented party.

ENTER: March 27, 2013


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA